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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,884	04/17/2004	Kevin L. Bixler	350p-Bixler	1434
7590	06/28/2005		EXAMINER	
Barber Legal PO Box 16220 Golden, CO 80402-6004			TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/826,884	BIXLER ET AL.
	Examiner	Art Unit
	Anabel M. Ton	2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 April 2004.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10, 14-20 and 22-28 is/are rejected.  
 7) Claim(s) 11-13 and 21 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 04/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (6,394,620).

3. With regards to applicant's spires, Wang discloses ornamental quadrilateral pyramids, which as per the definition of "spires" are considered to be spires. (A tapering roof or analogous pyramidal construction surmounting a tower)

4. Wang discloses an electrical cord having a plug at a first end (46), the electrical cord terminating at a light source at the second end (45); a hollow core having a plurality of sockets and having disposed therein the light source (ref. Num. 10-13); a plurality of decoratively faceted light passing spires extending radially from the core (20); each spire physically connected to one of the sockets (22,23).

- Each of the plurality of light passing spires is furthermore hollow (fig 1);
- The plurality of light passing spires extend from the core in at least two dimensions (Fig 1);
- The core further comprises an interior which reflects light (inherently all materials reflect light unless otherwise stated);

- The core further comprises a first portion, which may be removed to allow access to the light source (40).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 6,7,9,10,14-20,22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang and further in view of Kovacs (6,811,283).

Wang discloses the claimed invention except for the recitation of a plurality of lenses. Wang discloses an electrical cord having a plug at a first end, the electrical cord terminating at a light source at the second end; a hollow core having a plurality of sockets and having disposed therein the light source; a plurality of light passing spires extending radially from the core; each spire physically connected to one of the sockets. Kovacs discloses an icicle shaped hollow body member with a colored lens positioned between the light source and the top end of the icicle shaped body to vary the color of the icicle shaped body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the colored lens in plurality in the device of Wang, as taught by Kovacs, since such a modification would provide an aesthetically pleasing effect to the lamp of Wang. With regards to there being a plurality of lenses it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement a plurality of lenses in the device of Wang since it has been held

that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Furthermore, with regards to the lenses focusing light from the light source, inherently Kovacs lenses would focus light downwards the spire since a lens as such has optical properties.

- Kovacs discloses at least one lens partially disposed within at least one socket (figs 5 &6);
- Kovacs discloses at least one lens partially disposed within at least the hollow core (62);
- The spires of Wang are rigid. With regards to the spires of Wang being flexible, Wang discloses the spires having a hooking means engaging the polygonal frame base and can be removably fastened; this suggests the spires of Wang being at least partially flexible.
- Wang discloses each spire and socket being dimensioned and configured such that each spire may be individually removed from the socket to which it is physically connected. (Col. 2 lines 29-36)
- The socket and spire base each have at least one notch and at least one tab which overlap when the spire base is inserted into the socket (fig 2);
- The spires comprise a smooth texture;
- With regards to the spire comprising a material being a polycarbonate, polymer or PVC, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the abovementioned materials in the device of Wang, since the above materials are plastics which are old and well known in the

illumination art for use in lamps for the purpose of providing a functional part of a lamp that is cost effective, durable and has desirable characteristics/properties for certain illumination applications (clear, diffusive, reflective);

- With regards to the light source being colored, Wang discloses a light source, inherently emitting a color.
- With regards to the ornament comprising means for timed control of the electrical supply and at least one electrically actuated sound device, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a timed control and electrically actuated sound device in a decorative illuminated object since such features are old and well known in the illumination art for the purpose of providing additional aesthetically pleasing features to an illuminated device such as a timer for providing a function of intermittent blinking and a desired sound effect from a sound device. (See cited art Bauer for teaching);
- Wang's spires have a first and second length (fig 3);
- With regards to the hollow core and at least one of the spires having a plurality of decorative exterior facets, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the core and spires of Wang with decorative facets, since the courts have stated that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

- With regards to the ornament further comprising a photoelectric control circuit, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a photoelectric circuit in the device of Wang, since such a feature is old and well known in the illumination art for providing a light source with a sensing means to initialize power to the light source when the sensor detects a desired environmental light level (see cited art Cote et al for teaching)

7. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Upah (5,951,158).

Upah discloses the claimed invention except for the recitation of a bundle of fiber optics. Upah discloses a electrical cord (28) having a plug at a first end (18), the electrical cord terminating at a light source at a second end (26), a hollow core having a plurality of sockets (12,24), and having disposed therein the light source, a plurality of light passing spires extending radially from the core (34), each spire physically connected to one of the sockets (Fig 3), and at least one fiber optic (32) within at least one spire, the base of the fiber optic located at the end of the spire located at the hollow core and disposed so as to receive light rays from the light source. With regard to the device having a fiber optic bundle, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a fiber optic bundle in the device of Upah since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Furthermore it is old and well known in the illumination art to use a fiber optic bundle

instead of one fiber optic for the purpose of providing a desired application with a greater amount of light emission provided by the fiber optic bundle.

***Allowable Subject Matter***

8. Claims 11-13 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not teach a plurality of steps on the light spire with a plurality of facets oriented to receive light from the light steps; at least one removable light passing sheath covering the exterior surface of the spire.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cote et al, Bauer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton  
Examiner  
Art Unit 2875

AMT



Sandra O'Shea  
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